

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN BOB STORY**, on February 16, 2001 at 8:00 A.M., in Room 472 Capitol.

ROLL CALL

Members Present:

Rep. Bob Story, Chairman (R)
Rep. Roger Somerville, Vice Chairman (R)
Rep. Joan Andersen (R)
Rep. Keith Bales (R)
Rep. Joe Balyeat (R)
Rep. Gary Branae (D)
Rep. Eileen Carney (D)
Rep. Larry Cyr (D)
Rep. Rick Dale (R)
Rep. Ronald Devlin (R)
Rep. John Esp (R)
Rep. Gary Forrester (D)
Rep. Daniel Fuchs (R)
Rep. Verdell Jackson (R)
Rep. Jesse Laslovich (D)
Rep. Trudi Schmidt (D)
Rep. Butch Waddill (R)
Rep. Karl Waitschies (R)
Rep. David Wanzenried (D)

Members Excused: Rep. Ron Erickson, Vice Chairman (D)

Members Absent: None.

Staff Present: Jeff Martin, Legislative Branch
Rhonda Van Meter, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 578, 4/13/2001
Executive Action: HB 578; HB 377

HEARING ON HB 578

Sponsor: REPRESENTATIVE TIM CALLAHAN, HD 43, Great Falls

Proponents: Bob Stephens, Montana Graingrowers Association
Carol Lambert, W.I.F.E.
John Youngberg, Montana Farm Bureau

Opponents: None.

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 3.7}

REP. CALLAHAN said this is a bill to extend the deadline for the tax credit for producing ethanol and mixing it with gasoline.

Questions from Committee Members and Responses:

{Tape : 1; Side : A; Approx. Time Counter : 5.5}

REP. SOMERVILLE asked why the bill does not include moving the funding from the State Highway Special Fund to the general fund.

REP. CALLAHAN said the people who would like to get into this made a determination it would be beneficial to them to get production going if they could have the deadline moved out. REP. SOMERVILLE asked if the sponsor would agree to change the funding source. REP. CALLAHAN said no. REP. STORY asked if the sponsor understood the ramifications of moving the funding to the general fund. REP. CALLAHAN said he is on appropriations and know what that means.

REP. WAITSCHIES asked what the current state portion of the gas tax is. REP. CALLAHAN said he does not know. REP. WAITSCHIES said he thinks it is \$.27. He asked if this is actually a subsidy that is being asked for. REP. CALLAHAN said he did not think it was intended to be a subsidy.

Closing by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 8.3}

REP. CALLAHAN said the purpose of the bill is to simply extend the deadline of the credit already on the books.

EXECUTIVE ACTION ON HB 578

Motion: REP. WANZENRIED moved that HB 578 DO PASS.

Motion: REP. SOMERVILLE moved that AMENDMENT DO PASS.

Discussion: REP. SOMERVILLE said right now the money for this program is earmarked to come out of the State Highway Special Revenue Fund, and that is \$6 million per year, which is a tremendous hit to that fund right now. This fund operates the Department of Transportation and is used to match the Federal funds to work on highways. If any more money is taken out of the fund, it will go into the negative. This amendment changes the funding source to the general fund. REP. WAITSCHIES asked if the gasohol is produced they would pay a 27.5 cent per gallon highway tax and then be reimbursed 30 cents. REP. SOMERVILLE said for every gallon they produce the company will be paid 30 cents per gallon up to \$3 million. The bill allows for two plants to be in operation; therefore, \$6 million is earmarked per year. REP. WAITSCHIES asked if there is 27.5 cents coming in when the gasohol is sold. REP. SOMERVILLE said 27 3/4 cents is the tax on gasoline currently. He believes the 3/4 cents is an underground tank cleanup program, so the actual tax going back into the highway special revenue fund is 27 cents. REP. WAITSCHIES asked if the net effect is 2 1/4 cents paid out per gallon. REP. SOMERVILLE said you do not run pure ethanol, so it is a blended mix. REP. JACKSON asked if this section of law is to encourage production of ethanol. REP. SOMERVILLE said this is a program that is an incentive to produce gasohol. In the past they decided to put it into the Highway Special Revenue Fund instead of the general fund because that was the only fund with extra money the year the program was developed. REP. JACKSON asked if it is necessary to extend this program. REP. SOMERVILLE said this is another thought, but the producers still want to have this additional incentive to make sure the plant operates. There is nothing wrong with that except that it is coming out of the wrong fund. REP. JACKSON asked what happens when this hits appropriations and there is no funds set aside for it. REP. SOMERVILLE said the program may go away. REP. SCHMIDT asked when this program was first established. Governor Tim Babcock said this is a companion bill to the bill for the Great Falls ethanol plant tax break, and they do need both programs to complete their financing. Some of the money taken from the highway fund will come back in from taxes so it is not a complete drain of the fund. This program has not been used. At this present time, he would like the funding to stay in the highway fund. No funds will be used for two years because it will take that long to build a plant. REP. FUCHS asked if the Department of

Transportation has voiced a concern about this. **REP. SOMERVILLE** said the industry slipped in another bill other than the one he sponsored, and this was quite upsetting. If the bill is killed now, they can come back next legislature and look at this issue. **Governor Babcock** said he urges the committee not to kill the bill because the program is in their present financial plans. **REP. FORRESTER** asked what the going price of a bushel of wheat is today. **Bob Stephens, Montana Graingrowers**, said about \$2.85. It depends on the protein. **REP. FORRESTER** asked what it will take to move the price of wheat up to the break even point for farmers to make money. **Bob Stephens** said there would have to be more uses for it. There is not a very good export program right now. This plant in Great Falls is planning on using 30 million bushels of wheat. **REP. FORRESTER** asked how many bushels of wheat Montana produces per year. **Bob Stephens** said approximately a couple hundred million. **REP. FORRESTER** asked if it could be 1/6 to 1/8 of the amount produced in Montana that would be used in this plant, and if this amount of wheat was to be used, is there a chance there would be an upward movement in the price. **Bob Stephens** said he thinks so in Montana, because the state has high quality wheat. Most of it goes to the orient, and if it is being used up in ethanol plants, it would probably increase. This plant will cost \$265 million and will employ 500 construction people and 260 people permanently. It is vital to these new plants to get the startup money. **REP. FORRESTER** asked what Montana Graingrowers thinks about taking the money out of the general fund and sending the bill to appropriations. **Bob Stephens** said this is a short-term move because no money is coming out of appropriations this session. This money has to be applied for 18 months ahead of time. There is only a very slim possibility this money will be used before the next session. It is the wrong time to take the money out of the highway fund. **REP. FORRESTER** asked if there is a way this committee can assure the highway monies will not be used for two years. **Governor Babcock** said because of the size of the project there is no way it can be built within two years. **REP. FORRESTER** asked why Representative Somerville is so afraid the highway fund will be jeopardized when people have stated it will not be built for two years and in fact might jeopardize the new plant project. **REP. SOMERVILLE** said with this bill we are talking about bienniums through 2010. The highway fund is currently at \$2-5 million, so if you start taking out \$3-6 million per year, it will go in the negative balance. The following years after the two years it takes to build the plant will make a major impact on the fund balance. This highway fund is economic development for Montana, because we need highways to move products and people. **REP. BALYEAT** asked if there is any way to reconcile Representative Somerville's concerns with Governor Babcock's concerns. **REP.**

SOMERVILLE said just kill this bill now and come back in two years to revisit this issue. **REP. STORY** asked if the amendment fits in the title of the bill, as the bill just extends the deadline. The fund transfer is another issue. **REP. BALES** said he agrees that this amendment does not fit in the bill. This bill is needed because any banker wants security farther out than just 2-3 years. This program just removes the tax from the ethanol portion of the gasoline you buy. The only way they get the full 30 cents is if all of the product they are using is in Montana. This will boost the economy of Montana, and it is a renewable resource. We need good highways, but they are not renewable and have maintenance costs. **REP. ESP** asked how many full-time employees the plant would have after they are up and running. **Governor Babcock** said approximately 265 full-time employees in Great Falls and possibly 500 for the proposed plant in Conrad. There are also 500 construction jobs with that in Great Falls. **REP. FUCHS** said the fact that the Department of Transportation is not here speaks volumes. The testimony has shown that this is needed. If there is an issue in two years regarding this, it can be brought to the legislature at that time.

Motion/Vote: **REP. SOMERVILLE** moved that **AMENDMENT DO PASS**.
Motion failed 5-15 with Balyeat, Carney, Esp, Jackson, and Somerville voting aye.

Motion/Vote: **REP. SOMERVILLE** moved that **HB 578 BE TABLED**.
Motion failed 1-19 with Somerville voting aye.

Motion/Vote: **REP. WANZENRIED** moved that **HB 578 DO PASS**. **Motion carried 18-2 with Esp and Somerville voting no.**

EXECUTIVE ACTION ON HB 377

Motion: **REP. SOMERVILLE** moved that **HB 377 DO PASS**.

Motion: **REP. SOMERVILLE** moved that **AMENDMENTS addressing Sections 1-3 DO PASS**.

Discussion: **EXHIBIT (tah39a01)** **REP. SOMERVILLE** said the endowment tax credit program has been very successful. They want to extend the program, but because of the fiscal note of \$9.1 million, they have addressed amending the program. He explained the amendments. The fiscal note after the decrease to a 40% credit will be \$4.5 million. **Kurt Alme, Director, Department of Revenue**, explained the amendments in more detail and how they address the current loopholes. **REP. BALYEAT** asked if this credit

was allowed on ordinary cash gifts every contribution in Montana would be eligible and the fiscal note would be astronomical.

Kurt Alme said yes. The main reason this bill came at the charities' requests was they were afraid their operating funds would starve while the endowments were being filled. **REP.**

FORRESTER asked why it is not said that we just made mistakes when the bill was put into law instead of saying there are loopholes, as this endowment has basically been rewritten and some people might not be happy when they find out about it. **REP.**

SOMERVILLE said they do the best they can writing bills, but there is always someone who will find a loophole. The intent was to make sure this was a planned gift because the charities had a fear they would lose their annual contributions. **REP. STORY** said it has never been the policy in the state tax code to allow a 50% tax credit for charitable contributions. People found a way to make a charitable contribution at a 50% tax credit instead of a deduction.

REP. BALLYEAT said some of the questions have substantiated the need to put sunsets in legislation so there is a chance to revisit programs like this. **REP. FORRESTER** asked how many of the people who testified on the bill know about the amendments. **REP. SOMERVILLE** said the group that worked to support this bill was involved with the amendments. He reminded the committee that the amendments addressing Section 4 and 5 of the bill are not included.

REP. SCHMIDT asked if the Montana Community Foundations know about the amendments. **Aidan Myhre, Governor's Task Force of Endowed Philanthropy,** said a lot of the charities have been kept informed and the Community Foundation is aware and supportive of the amendments.

REP. BALLYEAT asked if there is any idea of what the fiscal impact will be at a 40% credit and if this is in the governor's budget. **Kurt Alme** said it is approximately an extra \$280,000. With these significant changes, there could be repercussions on people's behavior, so the fiscal note has some pretty serious assumptions. This is in the governor's budget and they have agreed to the changes. **REP.**

BALLYEAT asked what the total amount is. **Kurt Alme** said approximately \$5.46 million.

Motion/Vote: **REP. SOMERVILLE** moved that **AMENDMENTS DO PASS.**
Motion carried unanimously.

Motion/Vote: **REP. SOMERVILLE** moved that **HB 377 DO PASS AS AMENDED.** **Motion carried unanimously.**

ADJOURNMENT

Adjournment: 9:00 A.M.

REP. BOB STORY, Chairman

RHONDA VAN METER, Secretary

BS/RV

EXHIBIT (tah39aad)